

Supporting Statement
for
Information Collection Request

**Transition Program
for Equipment Manufacturers**

EPA Number 1826.02
OMB Control Number 2060-0369

40 CFR 89.102

March 2001

Certification and Compliance Division
Office of Transportation and Air Quality

Office of Air and Radiation
U.S. Environmental Protection Agency

1. Identification of the Information Collection

1(a) Title and Number of the Information Collection

Transition Program for Equipment Manufacturers, EPA Number 1826.02, OMB Number 2060-0369.

1(b) Short Characterization

In August 1998, EPA promulgated new emissions standards (Tier I standards) for engines under 37 kW, and tightened existing standards (Tier II standards) for engines above 37 kW. During the rulemaking process, some equipment manufacturers expressed concerns about delays in notification from engine manufacturers about changes in engine design resulting from the new regulations. Changes in engine design can create problems in fitting the engine to the equipment, forcing equipment manufacturers to redesign their products. Consequently, equipment manufacturers would be unable to sell the volume of equipment they planned for until the new equipment designs are available. In an effort to address these concerns by providing original equipment manufacturers (OEMs) with some flexibility in complying with the regulations, EPA created the Transition Program for Equipment Manufacturers (TPEM). Under the program, OEMs are allowed to use a number of noncompliant engines (uncertified engines rated below 37 kW or Tier I engines rated at or above 37 kW) in their equipment for up to seven years after the effective date of the new standards. Post-manufacture marinizers can also take advantage of the provisions of this program. Participation in TPEM is voluntary.

Participating OEMs and engine manufacturers who provide the noncompliant engines to the OEMs are required to keep records and submit reports of their activities under the program. This information is collected and used by the Engine Programs Group (EPG), Certification and Compliance Division (CCD), Office of Transportation and Air Quality (OTAQ), Office of Air and Radiation (OAR), U.S. Environmental Protection Agency (EPA). The information could also be used by the Office of Enforcement and Compliance Assurance and the Department of Justice for enforcement purposes. Non-confidential business information could be disclosed to importers, end users, trade associations, environmental groups, and the public. The information is usually submitted in hard copy, and will be stored in

a database and EPG's files.

It has been estimated that a total of 548 manufacturers will respond to this collection with an approximate cost of \$1,923,792.

2. Need for and Use of the Collection

2(a) Need/Authority for the Collection

Pursuant to Section 206(a) of the Clean Air Act (42 USC 7521), vehicle and engine manufacturers may not legally introduce their product into US commerce unless EPA has certified that their vehicles and engines comply with applicable emission standards. Section 213(d) extends that prohibition, codified at 40 CFR 89.1003(a), to nonroad engines.

To alleviate the unintended impact of the August 1998 emission regulations on OEMs, EPA created TPEM. The program allows OEMs to install noncompliant engines in their equipment for a limited period of time provided they comply with the requirements described in this information collection.

TPEM also provides protection for engine manufacturers so that they can sell engines that do not comply with current regulations to OEMs under the provisions of TPEM. The program is codified at 40 CFR 89.102. A copy of section 89.102 is attached. Engine manufacturers are also required to report the number of engines they sold under TPEM and their purchasers annually. The purpose of these reports is to independently verify the information provided by OEMs in their reports and prevent misuse of the program.

2(b) Practical Utility/Users of the Data

The information collected under TPEM is used to verify compliance and prevent abuse or misuse of the program. If compliance issues are identified, information submitted under the program could be used for enforcement purposes.

The information is received and used by EPG/CCD/OTAQ/OAR. Non-confidential portions of the information might be used by importers, end users, environmental groups, members of the public, state and local governments or other federal agencies such as Customs.

3. Nonduplication, Consultations and Other Collection Criteria

3(a) Nonduplication

This program is unique to EPA. No other program or Agency collects this information. Because of its specialized (and sometimes confidential) nature, the information collected is not available from any other source. Some of the information requested --such as actual production volumes-- is claimed by manufacturers as confidential business information (CBI); therefore, EPA can only obtain it from manufacturers. Participation in the program is voluntary.

3(b) Public Notice Required Prior to ICR Submission to OMB

An announcement of the public comment period for this ICR renewal was published in the Federal Register on December 29, 2000 (65 FR 83004). No comments were received. A copy of the FR notice is attached.

3(c) Consultations

EPA consulted less than ten past respondents regarding this information collection burden.

Contact: Mr. Gary Gauthun
Company: Northwest Products
Phone: 253-854-1915

Contact: Ms. Lisa Maeser
Company: Hardy Diesels and Equipment,
China Diesel Imports
Phone: 800-341-7027

3(d) Effects of Less Frequent Collection

Except for the engine manufacturer's reports, each item of information requested is collected only once. More information could be requested is deemed necessary for compliance/enforcement purposes. Collecting that information less frequently will mean not to request information at all, making it impossible to verify compliance.

Engine manufacturers are required to submit an annual production report under the requirements of the Certification Program. To avoid duplication of reported information, the information requested in this information collection is submitted in those reports. It is also easier for the engine manufacturer to gather the information at the end of the engine model year rather than coming back later to gather information from different years and production cycles.

3(e) General Guidelines

This section is not applicable. No Paperwork Reduction Act guideline is exceeded.

3(f) Confidentiality

Manufacturers are allowed to assert a claim of confidentiality over information provided to EPA. Confidentiality is provided in accordance with the Freedom of Information Act and EPA regulations at 40 CFR Part 2.

3(g) Sensitive Questions

No sensitive questions are asked in this information collection.

4. Respondents and Information Requested

4(a) Respondents/NAICS Codes

Respondents are manufacturers of nonroad equipment and engines within the following North American Industry Classification System codes:

333618 Other Engine Equipment Manufacturing
333111 Farm Machinery and Equipment Manufacturing
33312 Construction Machinery Manufacturing

4(b) Information Requested

TPEM consists of four main "allowances" or "exemptions":

- Percent-of-production allowance
- Small volume allowance
- Existing inventory allowance and replacement engines
- Hardship relief

OEMs can claim only one of the first two allowances (percent-of-production or small volume) per power category. They can use the existing inventory allowance concurrently with the other three allowances. If an OEM is requesting hardship relief, it might be able to use either allowance after the hardship relief period is over, depending on the agreement that the company reaches with EPA.

OEMs must demonstrate compliance with the provisions of the allowance they have selected for each power category by submitting the corresponding calculations and by keeping adequate records of all exempt equipment. A list of power categories is attached.

OEMs electing to participate in TPME must also assure, in writing, to the engine manufacturer supplying the noncompliant engines that these engines are going to be used only in accordance

with the provisions of TPEM. Engine manufacturers need that written assurance to protect themselves against the liabilities found in 40 CFR 89.1003.

Some foreign OEMs prefer to have a representative in the United States to keep track of the exempt equipment imported for sale in the US market and to keep records. EPA allows those OEMs to designate a person (or company) through whom all of the OEM's exempt equipment must be imported to ensure that the limits imposed by the allowances are not exceeded. Once in the country, the equipment can be sold to any party. Manufacturers electing to designate a representative must sign a sole agent agreement with that person or company and notify EPA of their selection. A sample letter designating a representative is attached.

Although the regulations do not require it, EPA suggests that OEMs (or engine manufacturers) attach a label to the noncompliant engines used under the provisions of TPEM. This label identifies the engine as being exempt from compliance with current EPA regulations under the provisions of TPEM. OEMs, importers and engine manufacturers have welcomed this suggestion as it prevents unnecessary problems at the time of importation. To be legally imported, an engine needs to be certified and labeled accordingly. Unlabeled engines might be retained by Customs until the importer can proof that the engine is certified (and the label is obscured or missing) or exempt from compliance. By labeling the engine, OEMs let Customs know that the engine is covered by TPEM's provisions right away. Attached is a sample label.

OEMs must keep records of the production of all pieces of equipment manufactured under the provisions of TPEM. These records must be kept until December 31 of the year after the last year in which any of the allowances are used by the company. OEMs must make these records available to the Agency upon request. An OEM with inaccurate or inadequate records would be subject to civil penalties under existing law.

(i) Data Items

Table A
Information Items Requested from
Equipment Manufacturers

Information Item	Reference in Regulations
Letter designating a representative	Optional
Letter to the engine manufacturer	89.102(g)
Calculation to verify compliance	89.102(e)(1)

Table B
Application for Hardship Relief

OEMs who feel that TPEM does not provide a viable alternative for them to comply with EPA emissions regulations on a timely manner, and, as a consequence, will face serious economic hardship, can apply for hardship relief.

Information Item	Reference in Regulations
Statement that the applicant is not also the engine manufacturer	89.102(f)(2)
Evidence showing that the conditions causing the impending violation are substantially not the applicant's fault	89.102(f)(3)
Evidence showing that, if relief is not granted, the applicant will face serious economic hardship	89.102(f)(4)
Demonstration that no other allowance will help to avoid the impending violation	89.102(f)(5)

Table C
Information Items Requested from
Engine Manufacturers

Every year, within 30 days of the end of the model year, engine manufacturers supplying noncompliant engines under the provisions of TPEM must submit a report with the following information:

Information Item	Reference in Regulations
Number of engines produced by:	
Engine model	89.125(b)
Purchaser or shipping destination	89.125(b)
Other categories that EPA may require	89.125(b)

Table D
Recordkeeping Requirements

OEMs must keep records of all exempt equipment. OEMs and/or their representatives must keep sufficient records to demonstrate compliance until at least two full years after the last year in which the allowances are available for each power category (89.102(e)(2)). These records must be made available to EPA upon request.

Information Item	Reference in Regulations
Equipment and engine model numbers	89.102(e)(2)
Serial numbers	89.102(e)(2)
Dates of manufacture	89.102(e)(2)
Engine rated power	89.102(e)(2)
Sufficient information to verify compliance	89.102(e)(2)

(ii) Respondent Activities

Activities carried out by participating OEMs are as follows:

- Review the regulations; OEMs may contact EPA for further guidance
- Select an allowance per power category and decide what equipment to exempt
- Notify EPA of participation (optional)
- Send a letter to the engine manufacturer
- Count exempt equipment as it is produced
- Make corresponding calculations to ensure compliance with the requirements of the selected allowance
- Submit calculations and actual production data to EPA
- Retain and maintain records, and submit them upon request

In addition to these activities, OEMs who wish to designate a representative, need to:

- Sign a sole-agent agreement with their selectee
- Send a letter to EPA notifying the agency of their selection

OEMs who wish to apply for hardship relief will:

- Submit their request in writing describing their situation, and
- Provide proof that they will face serious economic hardship if relief is not granted

Engine manufacturers participating in TPEM as providers of noncompliant engines:

- Receive requests for engines and supply them (customary business practice)
- Gather information about who is requesting and purchasing the noncompliant engines
- Report to EPA their sales under TPEM by engine model and purchaser
- Keep records

5. The Information Collected--Agency Activities, Collection Methodology, and Information Management

5(a) Agency Activities

EPA spends a significant amount of time answering questions and providing guidance to OEMs, importers, engine manufacturers and other interested parties about the program. EPA reviews and stores the information provided by OEMs or their representatives, and will process their reports when they start coming in. The information contained in the reports will be used to verify compliance and for enforcement purposes, as needed. The agency also conducts investigations if there is reason to believe an OEM or its representative is misusing the program or defaulting its requirements.

In the near future, EPA will set up a database to store the information received. EPA is also finalizing a fact sheet to provide further guidance to respondents.

5(b) Collection Methodology and Management

Currently, EPA receives information from respondents both in electronic format and in hard copy. Letters designating a representative must be sent in hard copy since EPA needs an original signature for legal reasons. Once the database is in place, EPA will store respondent's information both in hard copy and electronic format.

5(c) Small Entity Flexibility

TPEM is particularly useful to small businesses as it provides them with additional time to comply with EPA emission regulations. Actually, the format of the program is based on recommendations made by the panel convened for the August 1998 rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The small volume allowance is intended to address the needs of small businesses with a limited product line. The percent-of-production allowance requires OEMs to use certified engines in a portion of their production. The small volume allowance eliminates that requirement and allows OEMs to exempt up to 200 pieces of equipment without using certified engines at all.

The information being requested is the minimum needed to maintain the integrity of the program. Further measures to simplify reporting for small businesses do not appear prudent or necessary.

5(d) Collection Schedule

Information submitted by OEMs is collected only at the beginning and at the end of their participation in the program. At the beginning, they notify EPA of their selection of a representative, if applicable, and/or their participation in the program, if they wish

to. At the end of the program, they must submit their calculations (no later than December 31 of the final year in which they use the allowances).

Engine manufacturers, however, need to submit their reports every year.

6. Estimating the Burden and Cost of the Collection

Refer to Table 1 and 2 for details.

6(a) Estimating Respondent Burden

Burden estimates were taken from the previous ICR and adjusted to reflect comments from fewer than 10 respondents consulted by EPA.

All burden estimates, including those associated with one-time preparations such as signing a sole-agent agreement, were annualized.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

To estimate labor costs for the equipment manufacturing industry, EPA used the mean hourly wage estimates developed by the Bureau of Labor Statistics (BLS) for the Industrial and Machinery Equipment Industry (SIC Major Group 35). The hourly rates estimated by BLS for management occupations (SOC 11-0000) is \$36.04. The mean hourly rate for Production, Planning and Expediting Clerks (SOC 43-5061) is \$16.26.

To estimate labor costs for the engine manufacturing industry, EPA used cost estimates provided in consultations with the industry (\$75 per hour for managers/engineers and \$38 per hour for clerical support). The labor cost rate provided by the Bureau of Labor Statistics was not used because this is an average for all manufacturing industries that do not reflect the actual cost for this particular industry, which is much higher.

(ii) Estimating Capital and Operations and Maintenance (O&M) Costs

Operation and maintenance costs associated with TPDM include phone calls, photocopying, postage expenses and diskettes. Diskettes may be used by manufacturers to keep their records.

No capital costs are associated with participation in this program.

(iii) Capital/Start-up vs. Operating and Maintenance Costs

There are no capital or start-up costs associated with this ICR. O&M costs are discussed in section 6(b)(ii).

(iv) Annualizing capital costs

There are no capital costs associated with this ICR.

6(c) Estimating Agency Burden

Government burden and cost (Table 3) is based on the time devoted to the program by a GS-12 Environmental Protection Specialist (\$25.47/hr), and a GS-13 Attorney (\$30.29/hr). The hourly rates were obtained from the Office of Personnel Management. Burden associated with one-time tasks such setting up a database have been annualized.

The time allocated to process reports is minimal since none of the allowances available at this time will expire within the next three years. However, EPA expects that a few OEMs will end their participation in the program early; therefore, 28 hours have been allocated to process their reports, plus 17 hours to process engine manufacturers' reports (0.5 hour per manufacturer).

EPA estimates that it will conduct 21 audits in the next three years (7 per year) on equipment manufacturers to ensure compliance. O&M costs for these audits include an average of \$75 per company in

phone calls, faxes, mail and other expenses and two trips at a cost of \$650 each, annualized.

Other O&M costs include phone calls, faxes, postage, diskettes to store information and other expenses incurred in contacting respondents and costs associated with distribution of the fact sheet and other written guidance.

6(d) Estimating the Respondent Universe and Total Burden and Costs

Since OEMs are not required to notify EPA of their participation in the program, it is difficult to assess the number of respondents. In the previous ICR, EPA estimated that out of a total of 640 OEMs, 282 were eligible for the small volume allowance and 233 for the percent of production allowance. However, burden and cost calculations included only the burden and cost of the percent of production allowance. In this ICR, we are keeping the original participation estimates; however, we are incorporating burden estimates for all participating OEMs (515).

Based on the number of engine manufacturers that have contacted us requesting information about the program and the information we have received from some equipment manufacturers, EPA estimates that a total of 33 engine manufacturers are willing to participate in the program.

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally

Number of Respondents:	548
Number of Activities:	13
Total Hours Per Year:	66,647
Total Labor Cost Per Year:	\$1,917,254
Total Annual Capital Costs:	0
Total Annual O&M Costs:	\$18,611
Total Costs:	\$1,935,889

(ii) The Agency Tally

Number of Respondents:	548
Number of Activities:	9
Total Hours Per Year:	904
Total Labor Cost Per Year:	\$23,725
Total Annual Capital Costs:	0
Total Annual O&M Costs:	\$1,448
Total Costs:	\$2,562,264

6(f) Reasons for change in burden

Burden estimates have increased from 9,352 hours in the previous

ICR (only one hour was requested in the OMB-83i form) to 65,223 in this renewal for several reasons. First, the previous ICR included the burden associated with participation in the percent-of-production allowance only. In this ICR, EPA is incorporating the burden associated with the small volume allowance and hardship relief. Please refer to section 6(d) for further details. Second, EPA has done a better job in accounting for the different tasks that OEMs need to accomplish to participate in TPEM. Third, EPA has added burden estimates for some voluntary tasks that were not in effect when the previous supporting statement was written.

6(g) Burden Statement

The average annual burden associated with participation in the Transition Program for Equipment Manufacturers is of 146 hours per equipment manufacturer or post-manufacture marinizer and 72 per engine manufacturer.

These estimates include time to review applicable regulations and guidance documents, generate and gather the necessary information, submit applications and reports, and maintain records.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, U.S. Environmental

Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460-0001; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number 1826.02 and OMB control number 2060-0369 in any correspondence.



Sample letter designating a representative

ABC COMPANY
404 Equipment Manufacturing Dr.
My Town, MY Country
tel.: 111-555-222; fax: 111-555-2223

January 12, 2000

Ms. Nydia Yanira Reyes-Morales
Engine Programs Group
US Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Mail Code 6403J
Washington, DC 20460

Dear Ms. Reyes-Morales:

We manufacture tractors equipped with engines rated between 19 kW and 75 kW. We have designated XYZ Importers to represent us in the Transition Program for Equipment Manufacturers (TPEM). Ms. Linda Jones is our contact at XYZ Importers. She can be contacted at:

33205 Nonroad Equipment Lane
Their City, Their State 12345
phone: 222-333-4444
fax: 222-333-5555

I certify that XYZ Importers is the only entity I am authorizing under TPEM to introduce into US Commerce ABC Company's equipment using engines rated between 19 kW and 37 kW. I understand that I or my representative can use, in any single power category, either the percent-of-production allowance or the small volume allowance, but not both. Also, if applicable, I can use the existing inventory/replacement engine allowance. I also understand that I cannot get allowances for different factories under my control. I also certify that I have read and understood the provisions of TPEM set forth in 40 CFR 89.102.

Sincerely,

Marcos Pérez Vázquez
President

cc: Ms. Linda Jones

Effective Dates per Power Category

Engine Power Category	Tier	Model Year Standard Is First Effective
kW < 8* (hp < 11) 8 ≤ kW < 19 (11 ≤ hp < 25)	1	2000
	2	2005
	1	2000
	2	2005
19 ≤ kW < 37 (25 ≤ hp < 50)	1	1999
	2	2004
37 ≤ kW < 75 (50 ≤ hp < 100)	1	1996
	2	2004
	3	2008
75 ≤ kW < 130 (100 ≤ hp < 175)	1	1996
	2	2003
	3	2007
130 ≤ kW < 225 (175 ≤ hp < 300)	1	1996
	2	2003
	3	2006
225 ≤ kW < 450 (300 ≤ hp < 600)	1	1996
	2	2001
	3	2006
450 ≤ kW ≤ 560 (600 ≤ hp ≤ 750)	1	1996
	2	2002
	3	2006
>560 kW (>750 hp)	1	2000
	2	2006

* ≤ equal to or less than > greater than
 < less than

Sample Label

EMISSION CONTROL INFORMATION

engine model: zzzzzz
engine family: YABCL23.ABCDEF
displacement: 23.150 Liters
model year: 2000



This nonroad engine is exempt from the requirements of 40 CFR Part 89 under the provisions of the Transition Program for Equipment Manufacturers set forth in 40 CFR 89.102.

For further information about this
ABC COMPANY
engine, contact XXX Office at 555-444-3333 Made in My